

18385 Mr. Zuckerman



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON D.C. 20548

B-200260.4

June 9, 1981

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The Honorable Lawton Chiles  
United States Senate

Dear Senator Chiles:

We refer to your recent letter on behalf of ACR Electronics, Inc. of Hollywood, Florida, regarding a Department of the [Air Force contract for battery operated radio beacons]. A \$1,618,487.75 contract for the radio beacons had been awarded to Quadratic Electronics Inc., Altamonte Springs, Florida. The procurement was set aside for exclusive small business participation.

On February 9, 1981, we sustained a protest against the award which had been filed by Mil-Tech Systems Corp. and ACR Electronics because Quadratic had been found to be a large business by the Small Business Administration in light of the affiliation of one of its officers with a large business concern. In that decision, we recommended that the contract with Quadratic be terminated. On April 15, 1981 we sustained our original decision upon reconsideration (filed by Quadratic) notwithstanding a pending appeal before the SBA requesting reconsideration of that agency's decision that Quadratic was a large business.

Your letter expresses concern over the Air Force's advice to this Office that it did not intend to terminate the Quadratic contract as we had recommended because of the agency's finding that it would not be in the best interest of the Government to do so. As a result, you have requested that we take exception to the Air Force's expenditure of funds in connection with the Quadratic contract. At this point, however, we believe that the Air Force has advanced reasonable justification for its determination to continue with the Quadratic contract and that the action you request therefore is not warranted.

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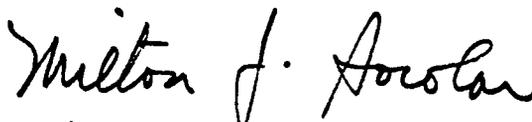
In this connection, we are enclosing a copy of the Air Force fact sheet filed in this Office which provides the bases for its determination. Although that document does not need repetition here, we believe the following portions are particularly persuasive:

1. Termination costs would equal about 65 percent of the entire contract value or \$1,049,295.
2. The termination inventory, consisting of various parts and assemblies would be of limited value, considering the administrative costs of handling it, the limitations of offering it as Government Furnished Material, and the conditions placed on its purchase and use by ACR if it were to be awarded a contract.
3. The inventory position of the Air Force with respect to this items is precarious and would be exacerbated by a termination and resolicitation (in this connection the Air Force has advised us that it would not award a contract to ACR upon termination, since ACR, the third low bidder, bid a price which the agency deemed to be excessive. Mil-Tech, the second low bidder is reported to be in financial difficulty).
4. SBA may have been in error in finding Quadratic to be a large business. In this regard, the Air Force points out that SBA has certified that firm "as a legitimate small business firm for future solicitations."

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Since the information contained in the fact sheet was not available to us (or the Air Force) at the time of our original decision, we believe the original recommendation was correct at the time it was made. In light of the new information, however, particularly the information indicating that the Air Force could not award a contract to the other bidders so that a resolicitation would be necessary, that the Small Business Administration now views Quadratic as a small business, and that a termination would have an adverse effect on the Air Force's supply posture for critically needed items, we think the best interests of the Government would not be served by a termination at this point. We do point out that, as the enclosure indicates, the Air Force is taking steps to prevent a recurrence of the procedural deficiency that marred this procurement so that, hopefully, the required pre-award notice of intent to award to a small business offeror henceforth will be transmitted in all appropriate cases.

Sincerely yours,



Acting Comptroller General  
of the United States

Enclosure